

Minutes of a Regular Meeting February 20, 2003

Town of Los Altos Hills City Council Regular Meeting

Thursday, February 20, 2003, 6:00 P.M.
Council Chambers, 26379 Fremont Road

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Fenwick called the Regular Meeting of the City Council to order at 6:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Fenwick, Mayor Pro Tem Cheng and Councilmembers
O'Malley and Warshawsky
Absent: Councilmember Kerr
Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas,
Planning Director Carl Cahill, City Engineer/Director of Public
Works Mintze Cheng, Administrative Services Director Sarah
Joiner, and City Clerk Karen Jost
Press: Christina Bellantoni, Palo Alto Daily

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to limit the length of time for public comments to three minutes.

2. APPOINTMENTS AND PRESENTATIONS

3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported there was no new business from the Planning Commission. He informed Council the Town has received notification from LAFCO that the Ravensbury Annexation of approximately sixty acres and fifty residences is complete as of December 19, 2002. Staff will be preparing a letter from the Mayor and Council welcoming the new residents.

Mayor Pro Tem Cheng stated that she is concerned that there had been little dialogue regarding non-conforming structures during the previous annexation process.

Mayor Fenwick noted that discussion of Council policy regarding annexations has been scheduled for the next City Council Meeting.

4. CONSENT CALENDAR

Item Removed: 4.1 (Warshawsky) 4.2 (Cheng)

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Fenwick and passed unanimously to approve the remainder of the Consent Calendar, specifically:

- 4.3 Fast Track Application: Approved by the Planning Director: Lands of Liu – (219-02-ZP-SD), 12690 La Cresta Drive, request for a new residence.
- 4.4 Approval of Revised Standing Committee Resolution 55-02 Reso # 10-03
- 4.5 Approval of Dedication of Right-of-Way: Lands of Boal, 13860 Robleda Road, Reso# 11-03

Items Removed:

- 4.1 Approval of Minutes: February 06, 2003 Regular City Council Meeting

Councilmember Warshawsky noted the grammatical error on page 9 paragraph 3, “believe” should read “believes”.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by O'Malley and passed unanimously to approve the minutes of the February 06, 2003 Regular City Council Meeting as amended.

- 4.2 Approval of Warrants: 01/30/2003 – 02/12/2003 (\$257,380.70)

Mayor Pro Tem Cheng requested clarification of the Town's legal fees appearing on the warrants.

Administrative Services Director Sarah Joiner explained legal fees are charged on an hourly rate that varies according to the attorney working on the assignment. They are categorized by the nature of the work, and assigned accordingly; to either the general fund, an enterprise fund, general city expense or an applicant's project.

MOTION SECONDED AND CARRIED: Moved by Cheng, seconded by O'Malley and passed unanimously to approve the warrants of 01/30/2003 – 02/12/2003.

5. UNFINISHED BUSINESS

- 5.1 Update on Mayor's Goals

- 5.1.1 New Town Hall – Committee Meeting 2/25/03

The City Manager noted that the February 25th New Town Hall Meeting will be held at Bullis–School to accommodate an item on the Committee's Meeting Agenda regarding consideration of dual use of the multi-purpose room.

5.1.2 Undergrounding of Utilities – Committee Meeting 2/25/03

Mayor Fenwick observed this would be the first meeting of this Committee since the Regular City Council Meeting of February 6, 2003.

5.1.3 Master Pathway Map – Committee Report

Councilmember O'Malley reported that his Committee had met on Friday, February 14th for two hours and will meet again on Friday, February 28th for two hours. The Committee hopes to schedule a work session for a full day in the near future. The research has been laborious and taken longer than expected but at the conclusion of this process, they will have reviewed all issues on easements and have an accurate Pathway Map. O'Malley thanked the volunteers and staff that have been assisting him with this project.

Mayor Fenwick questioned if the Committee during their investigation have discovered any noticeable errors in the earlier Pathway Map.

O'Malley said some errors have been discovered but to this date, they have been minor. He added that the target date for completion of the review has not been amended and hopefully it will be completed by the end of April.

5.1.4 View Protection Ordinance –Planning Commission Meeting 2/27/03

Planning Director Carl Cahill advised Council that the View Protection Ordinance has been scheduled as a study session item for the Planning Commission Meeting of February 27th. The Planning Commission is tentatively scheduled to complete their report on March 13th and forward the Draft Ordinance to the City Council at their Regular Meeting of March 20th.

5.2 Discussion of SCVWD Adobe Creek Project – Reaches 5 & 7

Councilmember O'Malley explained to Council that he had initiated this item for discussion due to the recent proposal of the Santa Clara Valley Water District (SCVWD) to improve the flow at Burke Bridge. This is to alleviate the potential flooding for residences above the Burke Street Bridge but it could potentially have a negative impact on the residences above Reach 6 (Edith Bridge to Burke Street Bridge) if the flow capacity is not increased at this Reach also. The proposed project is inconsistent with the normal SCVWD procedure of working from the Bay to the Mountains.

O'Malley noted the project at Reach 7 re-introduces the issue of the SCVWD proposed project at Reach 5 (Edith Bridge to Foothill Expressway) which failed to be approved by a 3-2 vote by the prior Council. The size of the proposed Reach 5 project and the dramatic impact it would have on the entrance to the Town were major concerns to Council. Because it had not received Council approval, the Reach 5 project has been indefinitely postponed if Town does not accept the SCVWD plan.

Councilmember O'Malley added the future projects by the Water District at Reach 5, Reach 6, and Reach 7 impact several groups of residents each with different issues. O'Malley felt it was

important for Council to have a dialogue on this subject tonight and to hear from the public and SCVWD and it would be appropriate to schedule a Public Hearing on this subject at a future meeting.

OPENED PUBLIC COMMENT

David Bowers, 13730 Burke Road, noted that Adobe Creek fronts 300 feet of his back property. He has been residing at this residence for thirty years and believes the increased flow of Adobe Creek is the result of increased development upstream. The bridge at Burke Road is the oldest bridge on Adobe Creek and it was scheduled for replacement in 1997-98. The construction has been postponed several times and was to be completed during this year. Mr. Bowers added that he is frustrated with the delays. There is a flooding problem at Burke Road. It is an elevated site (levy) that creates ponding and water retention on neighboring properties and it needs to be corrected. He has experienced over \$200,000 in uninsured losses.

Tom Mandle, 25435 Fremont Road, remarked that his property is within inches of Adobe Creek. He referenced the petition that he circulated to the residents of Reach 6 requesting the Santa Clara Valley Water District not to proceed with the Burke Bridge Project until the restriction downstream of the Edith Bridge is removed. Mandle added that he does not want to stop the replacement of Burke Bridge but to ensure that SCVWD proceeds in the "right order" of upstream to downstream. Mandle would like the District to give careful consideration to Mr. Rogez's suggested design for improvements at Adobe Creek.

Pat Millar, 400 Cypress Drive, Los Altos, spoke to Council as the representative of residents that reside along Adobe Creek in Reach 5. She explained that the solutions to the flooding and erosion along Adobe Creek have been studied since 1980 with a variety of plans being considered. The District has been extremely intransigent in their approach. Milar hoped that Council would consider granting the necessary easements because there seems to be no other alternative but if the work is to be done, SCVWD should consider additional mitigation planting with trees and preserve as many of the existing trees as possible.

Peter Astiz, 13901 West Edith, commented that he believes the SCVWD plan is flawed technically and aesthetically and hoped the District would revisit the plan developed by Mr. Rogez's engineer Mr. Swanson.

Judy Estrin, 25311 West Fremont, remarked that it was untenable of the District to work on one bridge without the other. She asked Council whether the Town had considered doing any of the flood control work in Adobe Creek themselves and if there was any legal action that could be taken by the Town.

D.J. Rogez, 15617 Fremont Road, reviewed for Council the history of the Adobe Creek project during the past eighteen months noting this was the fourth time it has come before Council. The prior Mayors have all said no to the proposed SCVWD plan but the District has been inflexible with their design. Mr. Rogez added he has invested substantially in researching different alternatives and solutions to the outstanding issues with Adobe Creek. He concluded that it is his belief that the District's proposal will destroy the entrance to the Town and flood adjoining properties of the creek.

Liang Lee, Santa Clara Valley Water District, explained for Council the changes the District has made to their plan to resolve some of the issues that have been mentioned by the public tonight. The District is proposing to save Mr. Rogez's redwood grove and will not remove any native trees from Edith Park. He noted a committee of Adobe Creek residents and representatives of the Town of Los Altos Hills and the City of Los Altos developed the current design in 1990's not the SCVWD. The plan was presented to the Town in 2000 and was rejected by the residents because it had deviated too much from the approved planning study. It was modified by the District and accepted. The District has been working on this design for ten years and making changes to accommodate everyone's wishes and there are still requests for modifications. Lee added that Mr. Swanson's plan that is being suggested by several residents is very similar to a plan that was rejected by the Adobe Creek Committee. He concluded his presentation by adding the District is seeking a legal opinion on beginning work on Reaches 7-9 before Reach 5 and will contact the Town when their legal counsel renders a decision.

Councilmember O'Malley responded to questions posed by resident Estren. He explained the Town had researched the concept of doing the creek work but found it was beyond the Town's scope in affordability, liability and expertise.

Jennie Micko, Santa Clara Valley Water District, distributed to Council, a prepared report detailing the proposed plans for Reaches 5 and 7. The District has postponed the Reach 5 project for the foreseeable future and any change to the design will go back to the District Board. Micko noted for Council the photos in her handout of the high waters along Adobe Creek taken on December 16, 2002 and the need for bank stabilization. She added the District has made numerous accommodations to requests by residents including adding additional mature trees in the creek channel at Edith Park, preserving as many existing trees as possible, using colored concrete and planting vines on the concrete sections of the creek. If any substantial changes are made to the existing project plan, the environmental impact report and permits maybe affected. The Fish and Game permit expires in October 2003. Micko said SCVWD would not proceed with the project if the Town and Mr. Rogez do not grant them the necessary easements.

Micko then addressed Reach 7 – Burke Road Bridge. This is an issue with existing flooding caused by a constricting concrete culvert. If the culvert were to be removed, the flows that would go downstream would stay within the channel. The upstream portion of the creek is significantly smaller than the downstream portion of the creek.

Councilmember O'Malley commented that both Mayors Dauber and Casey have relayed their recollection of the proposed Reach 5 project design selected by the Adobe Creek Committee to him. The Committee was not fully aware of the depth, denuding and other land impacts that would result from this design. This is the primary disagreement between the Committee and the District.

Micko responded that she was not with SCVWD at the time, but it is possible that committee members were not provided with enough detail.

Mayor Pro Tem Cheng asked if Mr. Rogez was aware of the project before he developed his property.

Micko stated that the easement was a part of the condition of approval for Mr. Rogez's site development permit.

Mayor Pro Tem Cheng asked if the Burke Road Bridge construction would cause flooding downstream.

Micko answered that it will not. The creek downstream has the capacity for the additional flow.

Cheng questioned what the District's response would be if the area does flood.

Micko responded that Reach 6 still has a threat of flooding and will be shown on the FEMA maps as subject to flooding.

Cheng added that this is a very confusing issue with many different opinions. She questioned if the increased size of the culvert would increase the water flowing downstream and affect the residents more.

Liang Lee, SCVWD, stated the Water District had run computer simulations of increased flows, steady flows and unsteady flows and the flood hydrograph as it comes down Adobe Creek. They believe in the resulting data which reflects the creek has the capacity for the flow

Thomas Mandle, 25435 Fremont Road, commented that debris is trapped in a holding area by Edith Bridge and this was not included in the District's flow calculations. The debris backs up the water and causes the flooding. Mandle believes the calculations are not accurate and do not represent the potential of increased flooding.

D.J. Rogez, 15617 Fremont Road, stated that he was not aware of the SCVWD plan. The site was improved for a tennis court and swimming pool which is contrary to Ms. Micko's statement.

Terese Blockhus, 441 Cypress Drive – Reach 5, Los Altos, exhibited a series of photos that had been digitally enhanced to represent the completed project. She complemented the District on the compromises they have been willing to make. Blockhus hoped the District does not abandon the plan and they move forward. A majority of her neighbors support the plan.

CLOSED PUBLIC COMMENT

PASSED BY CONSENSUS: To schedule this item for a Public Hearing at the next City Council Meeting.

NEW BUSINESS

6.1 Zoning Ordinance Revision and General Plan Update – Status Report

Planning Director Carl Cahill introduced this item to the Council. He noted that the memo Council had before them was a status report reflecting the pending revisions to the Town Zoning Ordinances and pending amendments to the General Plan. Given the large volume of special projects including ordinance amendments, General Plan amendments and annexations directed by the City Council in the past year, staff time and resources were fully consumed. The fence ordinance and the conservation easement definition amendment have not yet been returned to the Planning Commission and City Council. Cahill requested direction from the City Council on these issues and their priority.

With regard to the General Plan Land Use Element, Cahill noted that it is approximately thirty years old. The Town is single zoned for Land Use, however, and the age of the document does not present a major problem. The update of this document was started in 1998-99. A community preference survey was mailed out to Town residents in late 2000 and the results were tabulated, graphed and charted in early 2001. Funds were budgeted to prepare an updated Land Use Element in 2002. Subsequently, the Council directed staff to prepare an update to the master Pathway Map and funds were expended on this project.

Cahill reported that the Town has received comment from the State Department of Housing and Community Development on the draft Housing Element that was approved by the City Council on May 2, 2002. They have indicated that the reliance on second units alone will no longer be enough to satisfy the Town's affordable housing obligations. Cahill suggested that the Council appoint a Council Sub-committee that could discuss the issues and options on affordable housing policies that might be included in the Housing Element in order to obtain State certification. Cahill added that it would be beneficial to invite several informed residents who have been a part of this process in the past.

Mayor Fenwick volunteered to participate in the Council Subcommittee on the General Plan Housing Element with Mayor Pro Tem Cheng. He added that he would include former Councilmembers that have experience with this issue.

PASSED BY CONSENSUS: To complete the view protection ordinance, concentrate on the Housing Element and visit the Conservation Easement definition this summer. Fences were not considered a critical issue and would be addressed at a later time.

Staff noted they would be in contact with the Mayor to establish a schedule for the Council Subcommittee review of the Housing Element.

6.2 Consideration of Request for Proposal – Customer Service Review of Building and Planning Departments

Planning Director Carl Cahill explained the request was part of the overall review of the Town's customer operations. Cahill noted that the review would help in determining if departments are operating at optimum efficiency.

Councilmember O'Malley requested clarification from the City Manager why this project had been proposed.

City Manager Cassingham explained this review is of a key service area – planning and building. It will enable staff to be more responsive to Council's recent requests for improving technology and to revisit customer service.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to award the bid for a review of the Town's Building and Planning Department customer service operation to Matrix Consulting Group for \$12,650.

6.3 Consideration of a Joint City Council Meeting Agenda - Town of Los Altos Hills and City of Los Altos

Mayor Fenwick explained that Mayor Casto, City of Los Altos, had contacted him requesting Council consideration of a joint Council meeting to discuss mutual issues. Fenwick noted there were four questions to be considered: is this activity something Council wants to do; when; where and what to discuss.

PASSED BY CONSENSUS: To hold a joint Council Meeting with the Los Altos City Council in their Chambers at Los Altos City Hall on Monday, March 31, 2003 at 6:00pm.

The Mayor requested that Agenda items for consideration be submitted to him.

REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Councilmember Warshawsky reported that he and Mayor Fenwick had attended the League of Women Voters elected officials reception.

Councilmember O'Malley reported that he had met with the City Manager, City Engineer, Planning Director and Rich Lawson to discuss his request for annexation to the Town of approximately 61 residences.

Mayor Pro Tem Cheng reported that she had attended the Valley Transportation Agency meeting and no issues that affected the Town were discussed.

Mayor Fenwick reported that he had attended the Community Relations Committee meeting. Plans for the upcoming Town Picnic on June 1st and the Newcomer's reception are progressing. Chairman Woolsey will be appearing before Council at the next meeting to discuss these events.

STAFF REPORTS

8.1 City Manager

City Manager Cassingham briefed Council on the status of the Town's website. The transition to Palo Alto IT is on target for the end of February. Town's site files have been transferred and tested, staff emails are set up and ready at the new hosting, site and staff is being trained on the process of uploading reports, agendas and minutes.

Cassingham added that on February 10th, Town management staff met with the Palo Alto IT staff and GIS staff and shared information to assist them in creating an effective demonstration of GIS. An analysis of cost and personnel hours to provide this type of information base is being researched and should be available for Council in March at the Mid-Year Budget review.

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

9. COUNCIL-INITIATED ITEMS

10. PRESENTATIONS FROM THE FLOOR

Dot Schreiner, 14301 Saddle Mountain Drive, stated that she would like Council and staff to be aware of the extremely pleasant experience she had with Public Safety Officer Steve Garcia. He was prompt, courteous and efficient and she would like to thank him for resolving her problem.

11. CLOSED SESSION:

Conference with Legal Counsel – Existing Litigation:
MacDonald et al. v. Town of Los Altos Hills et al. Case No. CV 813186.

Conference with Legal Counsel – Existing Litigation:
Gheyri v. Wells et al. Case No. CV 787358

The City Council provided direction to staff during the closed session, but no action was taken. Council reconvened into open session at 8:47 p.m.

12. ADJOURNMENT

MOTION SECONDED AND CARRIED: Moved by Cheng, seconded by Warshawsky and passed unanimously to adjourn the meeting at 8:47 p.m.

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the February 20, 2003 Regular City Council Meeting were approved at the Regular City Council Meeting of March 6, 2003.